
Meeting: Regulation Committee
Date: 17 November 2010
Subject: Adoption of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982
Report of: Gary Alderson, Director of Sustainable Communities
Summary: Approval to publish a notice of the draft resolution in relation to adoption of the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982, for the licensing of Street Trading.

Contact Officer: Patricia Davies (licensing & Policy Officer); David McBain (Licensing Enforcement Officer)
Public/Exempt: Public
Wards Affected: ALL
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Educating, protecting and providing opportunities for children and young people – Street trading proprietors are required to undergo Criminal Record Bureau Checks before a consent is issued. Conditions can be placed on consents to protect children from harm.
Managing growth effectively – This legislation will allow the Council to consider the number of consents and location of street traders.
Creating safer communities – The conditions that will be considered for each consent will help prevent crime and disorder, protect the public and prevent public nuisance.

Financial:

There will be advertising costs attached to the public notices which need to be published in the local press and are required for the correct adoption of the legislation. A fee will be payable by applicants which will offset these costs over time. The process of adopting the legislation, and the licensing process will be administered by the licensing team and the fees will be set to cover these costs.

Legal:

Compliance with the requirements of the Local Government (Miscellaneous Provisions) Act 1982.

Risk Management:

To ensure that street trading is undertaken in a safe and regulated manner

Staffing (including Trades Unions):

None

Equalities/Human Rights:

The Council has a legal duty to proactively promote race, gender and disability equality and to tackle discrimination experienced by other vulnerable groups. It is the role of the Licensing Authority to administer the licensing regime in accordance with the law and each application would be considered on its own merits.

Community Safety:

The adoption of the legislation to regulate street trading will allow the council to take all reasonable steps to reduce crime and disorder within Central Bedfordshire under Section 17 of the Crime and Disorder Act 1998.

Sustainability:

In adopting this legislation Central Bedfordshire Council will be able to develop a policy to ensure a vibrant and thriving leisure industry with safe and well run premises. Compliant businesses can be supported, and resources can be focused at those businesses that will not comply.

RECOMMENDATIONS:

- 1. That Regulation Committee approve the publishing of a notice containing a draft resolution in relation to the adoption of the relevant provisions to enable the regulation of street trading from the 1 April 2011.**
- 2. That Regulation Committee recommend that Full Council adopts the relevant provisions to enable regulation of street trading, subject to there being no outstanding, or unresolved, negative representations, and that these provisions come into force on the 1 April 2011.**

Introduction

1. Adoption of schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 will enable the Council to control the numbers and quality of street traders in the area. The purpose of this is to allow the Council to add vitality and choice to town centres, ensure a level playing field for all businesses, and to regulate both compliant and non-compliant businesses effectively.
2. Street trading is defined as “The selling or exposing or offering for sale of any article (including a living thing) in a street.
3. A street is defined as “any road, footway, beach or other area to which the public have access without payment, and, a service area as defined in section 329 of the Highways Act 1980”.
4. The intention is to make all streets in the area of Central Bedfordshire “Consent streets” – where street trading can lawfully take place with the consent of the Council.

Adoption

5. For successful adoption the Council must publish a notice containing a draft of the resolution (Appendix A) in a local paper. Copies must be served on the Police and Highway Authority, and it must contain a statement that representations may be made within 28 days.
6. After the expiry of the representation period, any representations received must be considered. Should there be no representations, or any representations received are easily resolved by officers, then the resolution of this Committee, to recommend adoption of the provisions, will be taken directly to Full Council. The Council will be asked to consider the resolution and, if there are no objections, to adopt the relevant provisions.

In the case of any representations that need further consideration, due to the fact that they are unable to be resolved by Officers, a further report will be brought to Regulation Committee, to ask the Regulation Committee to determine how to deal with the representations made. Upon the further resolution of the Regulation Committee, a final report will be taken to Full Council for a decision on whether the resolution should be passed or rejected. In any event, the Regulation Committee shall receive a further report to provide an update to the adoption of the provisions.

7. The local authority must then publish a notice in a local newspaper for two consecutive weeks stating that they have passed such a resolution and its general effect. The first notice must appear no later than 28 days before the provisions are due to come into force.
8. If the Council resolves to adopt the legislation, the operator of a premises under the Act must apply for consent to trade.
9. A Central Bedfordshire Council policy on Street Trading is currently out for consultation. This consultation runs from 18 October 2010 to 9 January 2011. Under the Central Bedfordshire Council Constitution the Regulation Committee have delegated responsibility for the 'Powers to licence market and street traders'. Therefore, the Policy will then be brought to Regulation Committee for approval.

Conclusion

10. Adoption of this legislation will:
 - Allow the Council to control the number and quality of street traders in the area.
 - Highlight the requirements and standards expected of street traders
 - Add vitality and choice to town centres
 - Allow the local authority to set reasonable fees to cover administration and enforcement costs. (Suggested fees will be proposed during the consultation period, for agreement by the relevant working group).

Appendices:

Appendix A – Street Trading Draft Resolution